



CITY HALL

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P.O. Box 378
Winona, MN 55987-0378
FAX: 507/457-8212

August 22, 2012

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, August 27, 2012, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. Call to Order
2. Approval of Minutes – August 13, 2012 (Sent Under Separate Cover)
3. Public Hearing – Nonconforming Ordinance Amendment
4. Sand Moratorium Study: Traffic Impacts
5. Sand Moratorium Study: Site by Site Analyses – Gould Transport Operation & 370 West Second Street
6. Other Business
7. Adjournment

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos Espinosa".

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Public Hearing - Nonconforming Ordinance Amendment

PREPARED BY: Carlos Espinosa

DATE: August 27, 2012

At the last meeting, the Commission recommended forwarding proposed nonconformity amendments to a public hearing. The agenda from the last meeting and the proposed ordinance changes are attached. After the public hearing, options open to Commissioners are:

- 1) Recommend approval proposed amendments as written.
- 2) Modify the proposed amendments.
- 3) Deny the proposed amendments.
- 4) Table a decision on the amendments and allow staff to answer any further questions.

After a decision by the Planning Commission, the proposed amendments will go to the City Council for a public hearing.

Attachments:

- 8/13/12 Nonconforming Ordinance Amendment Agenda Item and Proposed Ordinance Amendments.

PLANNING COMMISSION

AGENDA ITEM: 6. Nonconforming Ordinance Amendment

PREPARED BY: Carlos Espinosa

DATE: August 13, 2012

According to the state's nonconformity statute, "A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety." This is the key provision which would enable the City to enter into the previously discussed nonconformity agreement with Biesanz Stone Company. However, there must be a specific ordinance in City Code which allows the city to impose "reasonable regulations." Currently, there is no such ordinance in City Code. The attached draft nonconformity amendments would establish such an ordinance:

(f) Reasonable Regulations or Conditions. Pursuant to Minnesota Statutes, Section 462.357, Subd. 1e, the City may impose upon any nonconformity reasonable regulations or conditions to prevent and abate nuisances and to protect the public health, safety or welfare. Reasonable regulations or conditions may be imposed by the City on a nonconformity through a recordable instrument approved by the City Council, including a nonconformity agreement, or otherwise by permit or order of the City Council.

The draft amendments also propose other changes to the nonconforming section of the City Code. The first significant change is defining how nonconformities can expand:

Nonconformities may be expanded as follows:

- (1) Nonconforming uses may expand upon issuance of a conditional use permit only when listed as a conditional use within the applicable zoning district.
- (2) Nonconforming uses not listed as a conditional use may only expand if changed to a conforming use.
- (3) Nonconforming lots, structures or site characteristics may expand only upon approval of a variance.

These amendments would prevent non-conforming uses not listed as a conditional use (i.e. business uses in a residential zone) from expanding at all, while allowing conditionally permitted uses (i.e. bed and breakfasts in a residential zone) to expand through a CUP. The amendments would also allow other types of nonconformities to expand through variance.

The second significant change is definition of expansion:

For purposes of this section, expansion of a nonconformity shall include:

- (1) An increase in: structure dimension(s), size, area, height, width, number of units, usable floor area, and/or the land area of use;
- (2) Addition of a structure or part thereof;
- (3) Addition of equipment. This shall not apply to new equipment which constitutes merely an improvement over the previous method and does not constitute a change in the nature and purpose of the original use of a property.
- (4) Relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;

These amendments are important because state statute does not define expansion of a nonconformity. This definition would help determine when nonconformity needs a CUP or variance to expand.

Other changes to the ordinance include eliminating unused or redundant sections of the ordinance and adding appropriate definitions to the definition section of the zoning ordinance.

Next Steps

Staff requests that the Planning Commission review the proposed amendments. If the Commission concurs with proposed changes, a motion to forward the amendments to a public hearing at the next meeting would be appropriate.

Attachment:

- Proposed Ordinance Amendments

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Section 43.01 of Chapter 43 of the City Code of Winona, Minnesota, 1979, which Section sets forth "Definitions" of the Zoning Chapter, be amended as follows:

43.01 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

~~Nonconforming Use:—A building, structure or premises legally existing and/or used at the time of original adoption of the regulations of this chapter or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.~~

Nonconformity: Any land use, structure, lot, or site characteristic, which existed lawfully at the effective date of a zoning ordinance or subdivision ordinance, has been continued since that time, but which would not have been permitted to become established under the terms of the City Code as now written.

Nonconforming use: A use that was legally conforming at the time it was established but which does not comply with the current City Code.

Nonconforming structure: A structure that was legally conforming at the time it was constructed but which does not comply with the current City Code.

Nonconforming lot: A lot lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements for lot area, and/or width, depth, lot frontage, or other requirement of the existing City Code.

Nonconforming site characteristic: A site characteristic lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements of the existing City Code. For the purposes of nonconformities, "site characteristics" are physical improvements to the site beyond structures, and may include but are not limited to: impervious surface coverage, storm water facilities, parking and parking lots, driveway surfaces,

screening, fences, landscaping, sidewalks, patios, man-made water features such as ponds or swimming pools, and similar features.

Nonconformity Agreement. A recordable agreement between the City and the property owner of a nonconformity, which imposes reasonable regulations or conditions upon nonconformities to prevent and abate nuisances and to protect the public health, safety, or welfare. Such agreement may only be approved by the City Council.

Nonconformity, legal: A nonconformity that was legally conforming at the time it was established and received all required approvals.

Nonconformity, illegal: A nonconformity that was not legal at the time it was established or did not receive all required approvals.

Section 2. That Section 43.32 of Article III of the City Code of Winona, Minnesota, 1979, which article is entitled "Nonconforming Uses and Buildings" be amended as follows:

ARTICLE III. ~~NONCONFORMITIES~~ ~~USES AND BUILDINGS~~

43.32 ~~NONCONFORMITIES~~ ~~USES AND BUILDINGS~~.

(a) **Purpose and Intent.** It is the purpose and intent of this section to:

- (1) allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;
- (2) encourage such nonconformities to be brought into compliance when reasonable to do so;
- (3) establish the requirements under which nonconformities may be operated and maintained;
- (4) diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities; and
- (5) comply with Minnesota Statutes Section 462.357, Subd. 1e, as amended from time to time.

(ab) **Continuation Rights of Existing Uses.** Pursuant to Minnesota Statutes Section 462.357, Subd. 1e~~Except as hereinafter specified, any legal nonconformity, including, the lawful use or occupation of land or premises existing at the time a City Code amendment created the nonconformity, of a building or premises existing at the time of the original adoption or amendment of the regulations of this chapter may be continued with any necessary approvals, including through repair, structural alteration,~~

replacement, restoration, maintenance, and improvement, but not including expansion, unless authorized by this Section. unless:

(c) Termination of rights. A legal nonconforming use must not resume where:

- (1) The nonconformity or occupancy is discontinued for a period of more than one year. Further, there shall be a showing of intent to abandon the use or premises including some overt act expressing that intent shall be made.
- (2) A structural alteration increases usable floor area.
- (3) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. The assessed market value (including buildings and land) must be determined by the most recent valuation of the County Assessor.

Where any right to continue the nonconformity is terminated, any future use of land must comply fully with the City Code.

~~The use of a structure containing 2 or more dwelling units, or rooming units, which use does not provide sufficient off-street parking spaces and which use is being made of the structure on April 19, 1972, is declared to be a nonconforming use, but the use may continue even though the requirements for off-street parking spaces have not been met; provided, that:~~

- ~~(1) The owner of the structure registers it with the city within 120 days after April 19, 1972, in such a manner and on such form as the city prescribes, and~~
- ~~(2) The owner of the structure (if the structure is not already certified) applies to the city for a certificate of occupancy within 120 days after April 19, 1972.~~

~~Provided further, that such nonconforming use shall continue only so long as the use is not changed so as to render the certificate of occupancy invalid.~~

~~(08-17-59; 04-17-72)~~

(d) **Substitution.** Nonconforming uses may be substituted for another not more objectionable nonconforming use when authorized by the board in accordance with Section 43.30.

~~(b)(e) **Enlargement, Substitution of Uses.** No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required to do so by law or order, shall be expanded, enlarged, or extended, or substituted, unless the use thereof is changed to a use permitted in the district in which such building or premises is located, and except as follows:**Expansion.** Nonconformities may not be expanded, unless expressly permitted as discussed below. For purposes of this section, expansion of a nonconformity shall include:~~

- ~~(1) An increase in: structure dimension(s), size, area, height, width, number of units, usable floor area, and/or the land area of use;~~
- ~~(2) Addition of a structure or part thereof;~~
- ~~(3) Addition of equipment. This shall not apply to new equipment which constitutes merely an improvement over the previous method and does not constitute a change in the nature and purpose of the original use of a property.~~
- ~~(4) Relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;~~

Nonconformities may be expanded as follows:

- ~~(1) Nonconforming uses may expand upon issuance of a conditional use permit only when listed as a conditional use within the applicable zoning district.~~
- ~~(2) Nonconforming uses not listed as a conditional use may only expand if changed to a conforming use.~~
- ~~(3) Nonconforming lots, structures or site characteristics may expand only upon approval of a variance.~~

~~(f) **Reasonable Regulations or Conditions.** Pursuant to Minnesota Statutes, Section 462.357, Subd. 1e, the City may impose upon any nonconformity reasonable regulations or conditions to prevent and abate nuisances and to protect the public health, safety or welfare. Reasonable regulations or conditions may be imposed by the City on a nonconformity through a recordable instrument approved by the City Council, including a nonconformity agreement, or otherwise by permit or order of the City Council.~~

- ~~(1) Substitution. When authorized by the board, in accordance with the provisions of Section 43.30, the substitution for a nonconforming use of another not more objectionable nonconforming use.~~
- ~~(2) Nonconforming uses which have been made to conform. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. (08-17-59)~~

Section 3. That Section 43.32.1 of Article III of the City Code of Winona, Minnesota, 1979, which article is entitled "Nonconforming Uses and Buildings" be amended as follows:

~~43.32.1 NONCONFORMING BUILDINGS~~

- ~~(a) Any legal nonconforming building may be repaired, structurally altered, replaced, restored, maintained, and/or improved. However, no such building or structure may be expanded unless all parts of it fully conform with the standards of the underlying zoning. For purposes of this section, the term expanded shall include, but not be limited to, an increase in usable floor area.~~

Section 4. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

PLANNING COMMISSION

AGENDA ITEM: 4. Sand Moratorium Study: Traffic Impacts

PREPARED BY: Carlos Espinosa

DATE: August 27, 2012

Summary

The movement of frac sand in Winona generates significant amounts of truck traffic. The potential off-site impacts of truck traffic are one of the reasons a CUP was recommended for new sand processing and transportation operations. Based on numbers from approved CUP applications, completed site by site analyses, and discussions with operators, staff has assembled a map of approximate truck traffic generated at the sand facilities in Winona (attached). The numbers are approximate and based on the assumption that each operation is running. The level of activity at each site varies widely and depends on a number of factors including:

- 1) Market prices for frac sand
- 2) Season
- 2) Rail car storage capacity
- 3) Availability of rail cars and barges

Discussion with operators has indicated that Winona is at or near capacity for rail car storage. Additionally, the main rail line used to move the sand out of Winona is very busy and significant amounts of train traffic cannot be added without disrupting the transport of other commodities. The numbers on the attached map are representative of these limitations. Thus, without increases in rail storage capacity or room on the main line, the truck traffic numbers on the map are unlikely to increase significantly. There is room for expansion in barge traffic, but this is limited by the CUP requirement for transportation facilities. Additional truck traffic from any other new facility in Winona is also limited by the CUP requirement (which would presumably set a number of the maximum number of trucks per day).

Representatives from Mn/DOT and Wis/DOT will give presentations at the meeting about frac sand traffic from the perspective of state agencies. Staff intends for this meeting to be a general discussion, with recommendations to address truck traffic coming at the next meeting.

Attachment:

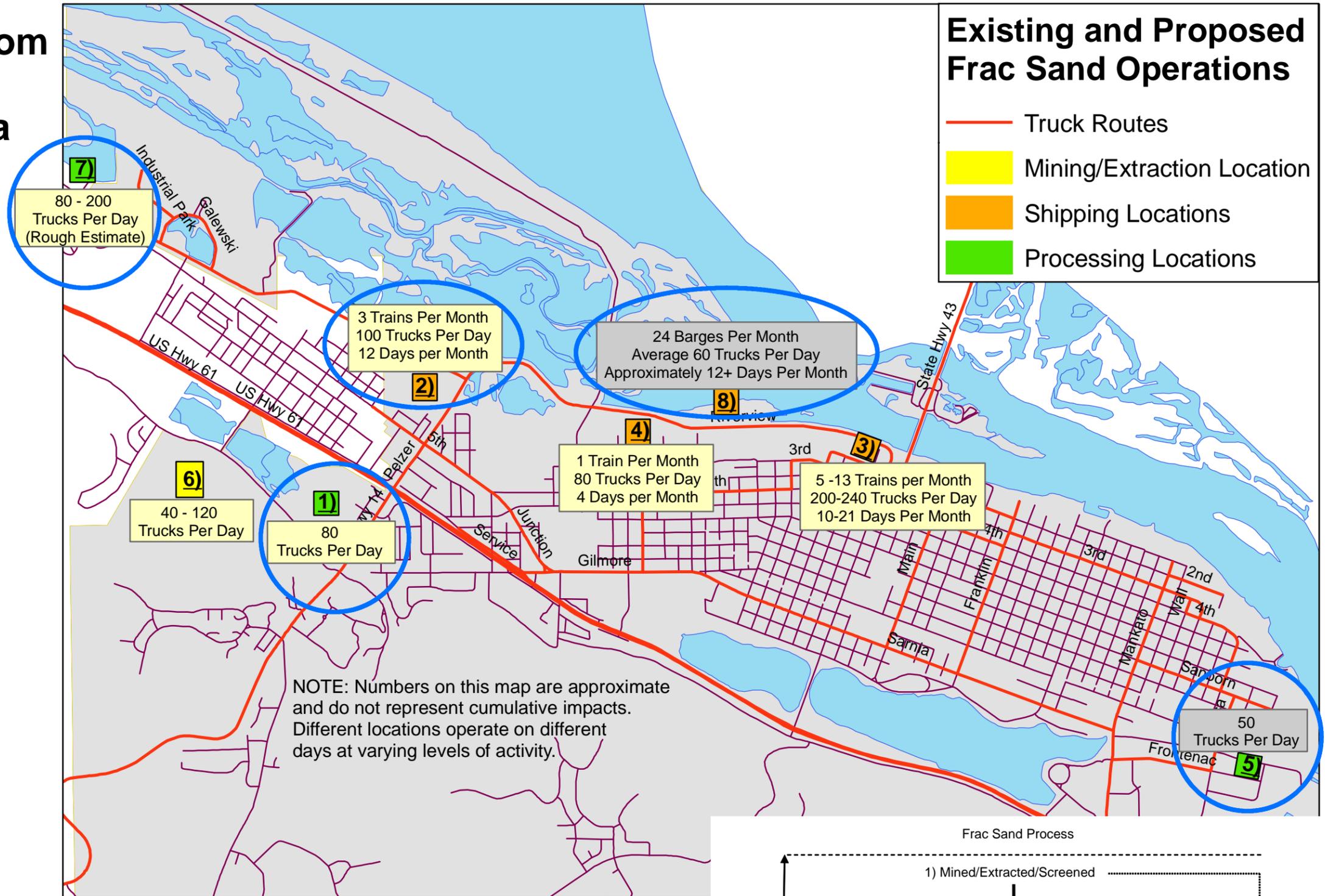
- Map of Approximate Truck Traffic at Sand Operations in Winona

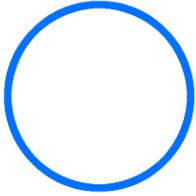
Approximate Truck Traffic From Active and Proposed Frac Sand Operations in Winona

August 2012

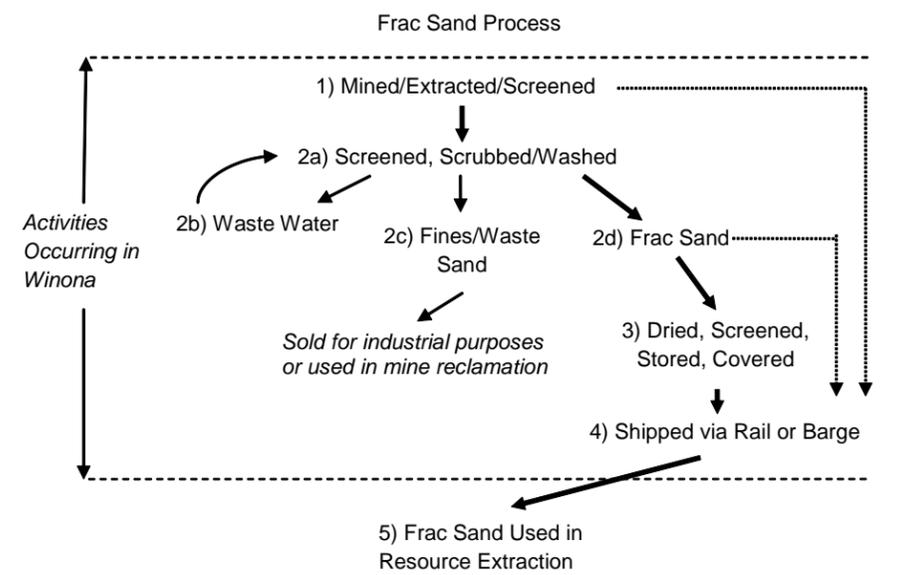
Numbers Match Locations on Map:

- 1) Active: 2100, 2121 Goodview Road**
Company/Individual: *Bob Hemker*
Activities Occurring: *Sand washing, then sent to number 4) for shipping*
Zoning: *A-G (Agricultural)*
- 2) Proposed: 25 McConnon Drive**
Company/Individual: *Rich Mikrut*
Activities to Occur: *Drying, screening, sorting, storage, and shipping via rail*
Zoning: *M-2 (General Manufacturing)*
- 3) Active: 370 West Second Street and Parcel 32-104-0050**
Company/Individual: *Steve Kohner*
Activities Occurring: *Washed and unwashed sand shipped via rail*
Zoning: *M-2 (General Manufacturing)*
- 4) Active: Property East of 70 Gould Street**
Company/Individual: *Rick Mikrut*
Activities Occurring: *Washed sand shipped via rail*
Zoning: *M-2 (General Manufacturing)*
- 5) Proposed: 1280-1330 Frontenac Drive**
Company/Individual: *Bob Hemker*
Activities to Occur: *Sand washing, drying, then sent to number 2) for shipping*
Zoning: *M-2 (General Manufacturing)*
- 6) Active: 4600 Goodview Road/Biesanz Stone Company**
Company/Individual: *Biesanz Stone Company*
Activities Occurring: *Mining/extraction and screening, then sent to number 7) for washing*
Zoning: *A-G (Agricultural)*
- 7) Active: 6930 West 5th St., MN City**
Company/Individual: *Steve Kohner*
Activities Occurring: *Sand washing, then sent to number 3) for shipping*
Zoning: *N/A*
- 8) Active: Port Authority Dock**
Company/Individual: *Winona Port Authority*
Activities Occurring: *Washed or unwashed sand shipped via barge*
Zoning: *M-2 (General Manufacturing)*



 = From Wisconsin/Trucks Travel Over Interstate Bridge

 = Truck or Barge Traffic Limited by CUP



PLANNING COMMISSION

AGENDA ITEM: 5. Sand Moratorium Study: Site by Site Analyses – Gould Transport Operation & 370 West Second Street

PREPARED BY: Carlos Espinosa

DATE: August 27, 2012

Summary

Attached are the site by site analyses for the Gould Transport Operation and the 370 West Second Street facility. The reports have the following staff recommendations:

Gould Transport Facility

- 1) Completion of a Fugitive Dust Plan – A fugitive dust control plan for the Gould facility is recommended to be filed with the City. The plan should detail what activities on-site could create dust, identify dust control strategies, and specify an inspection schedule.
- 2) Moisture Testing – Moisture testing of sand at the site is recommended. Such testing should follow protocol as defined by the City.
- 3) Obtain Industrial Stormwater Permit – If applicable, such a permit is recommended to be obtained from MPCA.

370 West Second Street

- 1) Moisture Testing – Moisture testing of sand at the site is recommended. Such testing should follow protocol as defined by the City.
- 2) Obtain Industrial Stormwater Permit – If applicable, such a permit is recommended to be obtained from MPCA.

If Commissioners concur with the recommendations, a motion to approve such recommendations would be in order.

Site by Site Analysis Status/Schedule

- 1) Biesanz – Completed
- 2) Port Authority Dock – Already reviewed as part of CUP approval/Complete
- 3) 1280-1330 Frontenac Drive – Already reviewed as part of CUP approval/Complete
- 4) 6930 West 5th Street, Minnesota City – Not within jurisdiction/Complete

PLANNING COMMISSION

5. SAND MORATORIUM STUDY: GOULD TRANSPORT OPERATION & 370 WEST SECOND STREET

AUGUST 27, 2012

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- 5) Gould Transport Operation – This agenda
- 6) 370 West Second Street – This agenda
- 7) 2100, 2121 Goodview Road Washing Facility – *September 10 Meeting*
- 8) 25 McConnon Drive – *September 10 Meeting*

Attachments:

- A) Gould Transport Operation Analysis
- B) 370 West Second Street Analysis

Winona Frac Sand Moratorium: Gould Transport Operation Analysis

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History of Site

Uses Prior to Frac Sand

The Gould Street sand transport operation is located immediately north of the City's Central Garage – just off Gould Street (see next page). This property has historically been used for a rail car repair facility and storage yard.



How Frac Sand Use was Established

In 2011, frac sand began to be stockpiled and loaded onto railcars at this site. The use was allowed under current manufacturing zoning in the M-2 zoning district. Because no buildings were erected and there were no new connections to City utilities, a site plan was not triggered for the operation.

Narrative of Current Operations

General Description of Activity

The sand at the Gould Street facility is washed at the facility on Highway 14 and Goodview Road before being stockpiled onsite and loaded onto railcars via front-end loader:



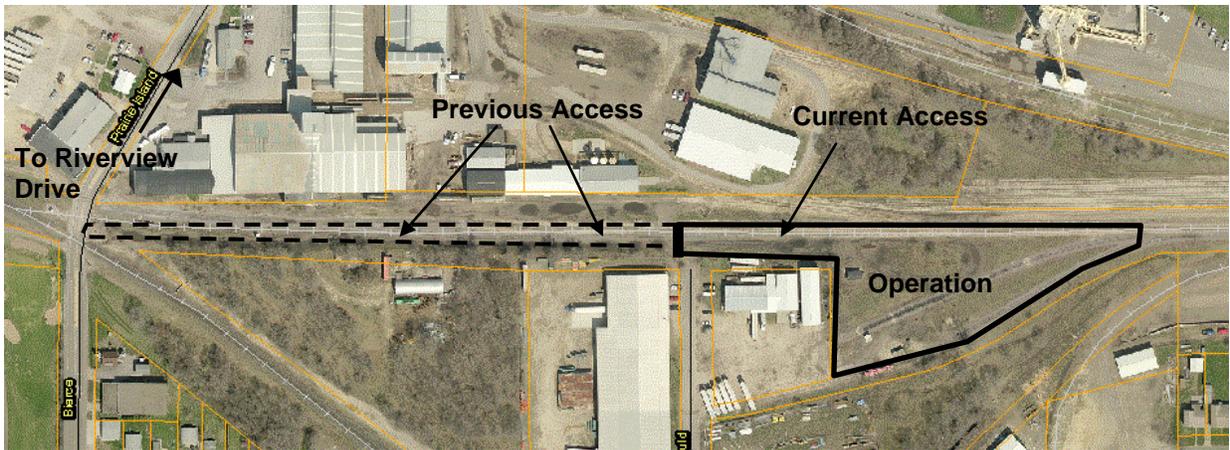
Number of Trucks

Because the site has a limited area for stockpiling and limited railcar storage capacity, truck traffic at this site is very cyclical. Basically, there is truck traffic once every 5 weeks when a train is being loaded. When a train is being loaded, approximately 80 trucks access the site per day for 4 days.

Truck Routes – Origin of Trucks

Trucks coming to the Gould Street operation use two different routes. Both leave from the facility at Highway 14 and Goodview Road. The first travels along Highway 61 to Gilmore. The trucks then travel along Gilmore to Cummings and head toward Fifth Street. Next, the trucks continue east on Fifth Street to Ben Street, north to Third Street, and then west on Third Street to Gould Street (see attached map). The second route uses Riverview Drive and a combination of Second Street and Third Street to reach the operation. While the routes are not ideal, they run on truck routes where possible and reduce impacts by utilizing two routes instead of one.

The trucks accessing the Gould Street site previously ran on Riverview Drive to Prairie Island Road and then used a railroad right-of-way to enter the site. This (more direct) access was closed due to issues with utilizing the railroad right-of-way.



State and Local Regulations that Apply

Zoning

The Gould Street property has been zoned M-2 since adoption of the zoning code in 1960. This is the correct zoning district for a rail loading/transportation use. Earlier this year, the code was amended to require a CUP for sand transportation facilities in the M-2 zoning district. As a result, the operation was grandfathered-in as a legal nonconforming use.

Comprehensive Plan

The 1995 Comprehensive Plan designated 370 West Second Street to be an “industrial” use in its future land use plan for year 2010. The updated 2007 Comprehensive Plan changed the designation to “Traditional Neighborhood.” Traditional Neighborhood is defined as “Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Interspersed with neighborhood parks, schools, churches, and home-businesses; neighborhood commercial within walking distance. Includes many of the City’s older neighborhoods and a few newer ones that employ this pattern.” This designation is the “vision” for property 20 years into the future (year 2027). Such a designation would be considered in a rezoning request and would indicate the Comprehensive Plan’s support for down-zoning from an industrial zone to a residential zone. However, considering the industrial character of the surrounding land uses, re-designation back to an industrial future land use may be appropriate when the Comprehensive Plan is updated (circa 2017).

Air - Permits Held or Dust Plans Followed

Air permits are not required by the MPCA required for sand transportation facilities of this size and nature. Also, the operation does not have a fugitive dust control plan. It is staff’s recommendation that such a control plan be produced (see Recommendations Section).

Water - Permits Held and Best Management Practices Followed

Discussion with the MPCA has indicated that an industrial stormwater permit from the MPCA may be required for this operation. If applicable, it is recommended such a permit be obtained.

Performance Standards

The City has performance standards for noise, dust, vibration, fire and explosion hazard, radioactivity, smoke, odors, glare, and liquid and solid wastes. Although all standards apply, those for noise and dust are probably most relevant to the transportation operation. However, the potential for issues with either standard is reduced because the Gould site is buffered by railroad tracks, industrial uses, and the City garage property.

The nearest measurement for noise standards would be made from the residential property 250-300 feet away. The decibel thresholds are shown below:

<u>Zoning District</u>	<u>Day (7 a.m. - 10 p.m.)</u>		<u>Night (10 p.m. - 7 a.m.)</u>	
	<u>L₅₀</u>	<u>L₁₀</u>	<u>L₅₀</u>	<u>L₁₀</u>
RMHP, R-S, R-R, R-1.5	60	65	50	55
R-1, R-2, R-3, C-1	60	65	50	55
B-1, B-2, B-3	65	70	65	70
B-2.5, M-1, M-2, A-G	75	80	75	80

As mentioned above, it is recommended that the operation produce a fugitive dust plan (mainly for dust related to access roads/truck traffic). Sand brought to the facility is washed and wet – therefore potential dust from the sand is minimal. Nonetheless, testing to ensure moisture content is recommended (see Recommendations Section).

Nonconforming status/CUP Applicability

When the CUP requirement for sand processing and transportation facilities was adopted in March 2012, the Gould Street operation became a nonconforming use. As a nonconforming use, the operation may continue, but not expand without the issuance of a CUP. For the purpose of the sand processing and transportation facility CUP requirement, “expansion” was defined as including:

- 1) Addition of new equipment
- 2) Increase in land area of use
- 3) Expansion onto a new site

Thus, prohibited expansion may include new loading equipment (such as conveyors) added in addition to existing equipment. Such expansion would require issuance of a CUP

Recommendations

Based on this report, the following is recommended:

1) Completion of a Fugitive Dust Plan – A fugitive dust control plan for the Gould facility is recommended to be filed with the City. The plan should detail what activities on-site could create dust, identify dust control strategies, and specify an inspection schedule.

2) Moisture Testing – Moisture testing of sand at the site is recommended. Such testing should follow protocol as defined by the City.

3) Obtain Industrial Stormwater Permit – If applicable, such permit is recommended to be obtained from MPCA.

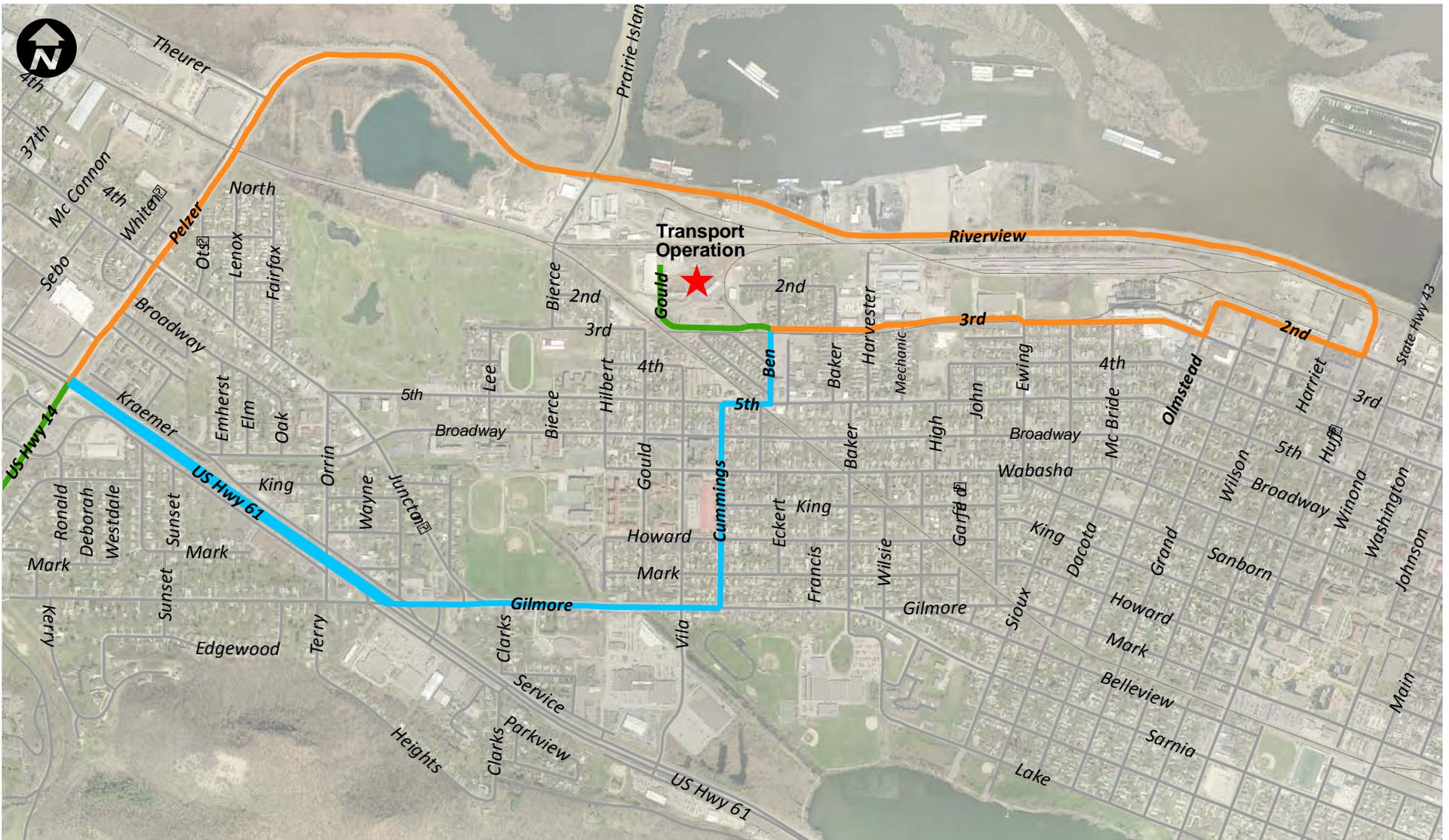
Attachment:

- Map of Truck Routes



Truck Routes to Gould Street Transport Operation

August 2012



Truck Route

- Route
- Route
- Shared Route



This map was compiled from a variety of sources. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.

Winona Frac Sand Moratorium: Modern Transport Terminal Facility Analysis - 370 West Second Street

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History of Site

Uses Prior to Frac Sand

The property at 370 West Second Street was used in the past as a railroad operation which included a depot and numerous rail spurs. The Winona Port Authority acquired the site in 1978 for redevelopment. A portion of the property was subsequently used for the flood control dike and the construction of Riverview Drive. The remainder of the site was cleared of the majority of the rail uses except for a rail spur along Second Street (serving the malting company) and another rail line along Riverview Drive (serving downtown industries). The site has suitability issues for the construction of buildings due to underlying property conditions such as deposits of sawdust from past activities. During the 1980's and early 1990's, the Port Authority worked with businesses on the purchase of the site but those businesses went to other locations due to the property conditions. In 1996, the property was sold to Rich Mikrut for industrial uses. The Winona Business Center building was subsequently constructed and a portion of the site was used for semi storage.

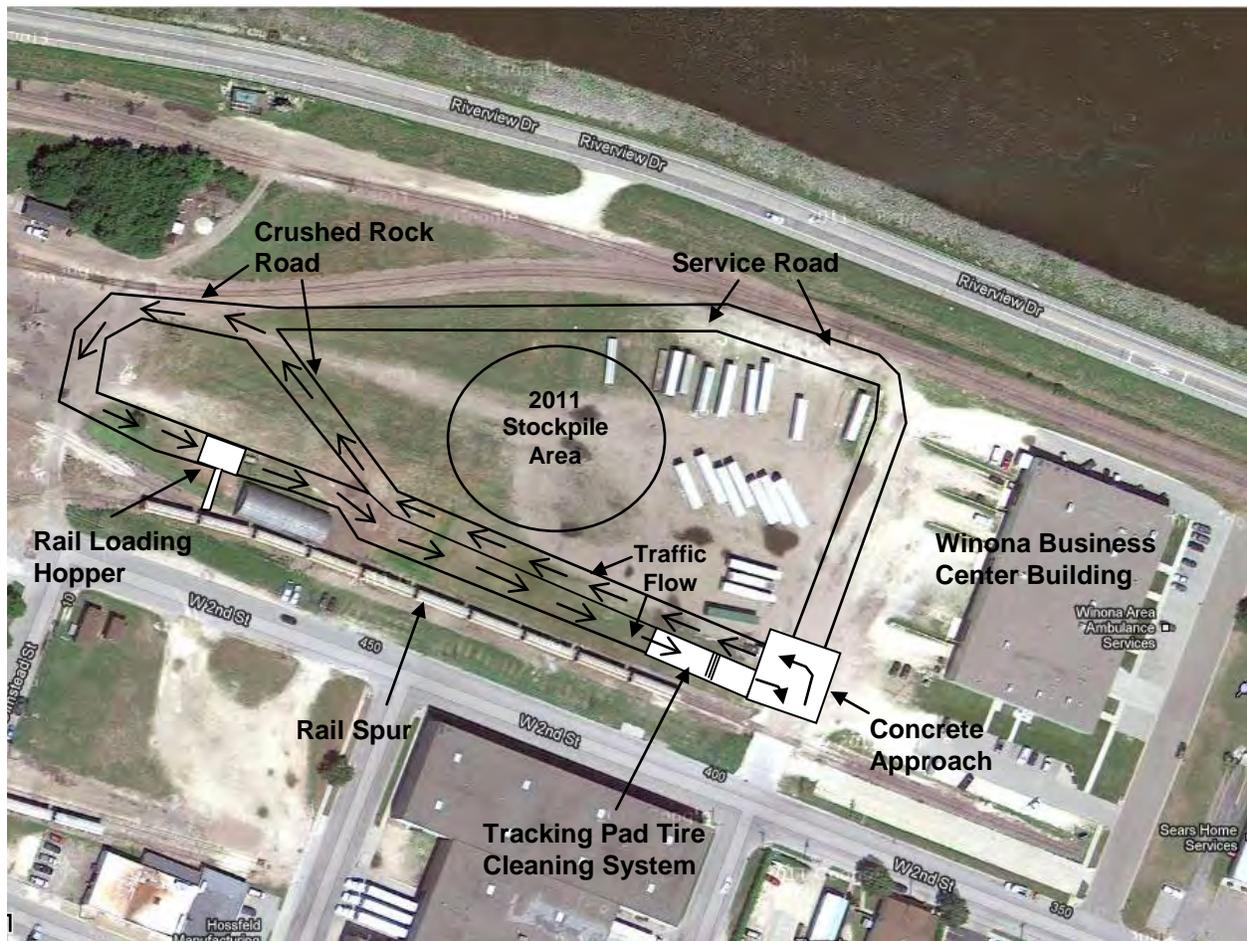
How Frac Sand Use was Established

The frac sand rail loading use started in 2011 and was allowed under current manufacturing zoning in the M-2 zoning district. Because no buildings were erected and there were no new connections to City utilities, a site plan was not triggered for the operation.

Narrative of Current Operations

General Description of Activity

Washed and unwashed sand is brought in via truck and loaded onto railcar via conveyor. The railcars are stored in the nearby rail yard before being assembled into unit trains. In 2011, there was significant stockpiling at the site. Future stockpiling at the site will be minimal. Future plans for the site include potential landscaping and screening to mitigate visual impacts and help with dust control.



Number of Trucks

In 2011, approximately 13 trains with 80-120 rail cars left from this facility per month. In 2012, approximately 5 have left per month. This variation is due to market circumstances which directly influence the number of trucks entering and exiting the site. In 2011, the site saw approximately 200 to 240 trucks per day during operation. In 2012, that number has dropped to 150 to 200 trucks per day during operation.

The trucks enter the facility via Huff Street and Second Street. The trucks are either coming from the west utilizing Riverview Drive, or from Wisconsin using the interstate bridge and Fourth Street to get to Huff Street. All of these roads are designated truck routes. Riverview Drive has a general (2007) Average Daily Traffic (ADT) volume of 8,600 with a general capacity of 15,000 ADT. The interstate bridge has an (2007) ADT volume of 11,600 with a general capacity of 15,000.

There are occasional congestion issues on the segment of road between the interstate bridge and Huff Street. The issues are a symptom of increased traffic utilizing the interstate bridge which is programmed for improvements in the near future. The design of a refurbished and/or new bridge will take into account these increasing traffic levels.

State and Local Regulations that Apply

Zoning

The property at 370 West Second Street has been zoned M-2 General Manufacturing since the adoption of the zoning code in 1960. This is the correct zoning district for a rail loading/transportation use. Earlier this year, the code was amended to require a CUP for sand transportation facilities in the M-2 zoning district. As a result, this operation was grandfathered-in as a legal nonconforming use.

Comprehensive Plan

The 1995 Comprehensive Plan designated 370 West Second Street to be an “industrial” use in its future land use plan for year 2010. The updated 2007 Comprehensive Plan changed the designation to Downtown Fringe. Downtown Fringe is defined as “Area supporting the central downtown core, with a similar mix of uses but a lower intensity. Includes “arts district,” medium density residential, mixed neighborhood retail and offices, employment centers, public spaces, and satellite parking facilities.” This designation is the “vision” for property 20 years into the future (year 2027). Such a designation would be considered in a rezoning request and would indicate the Comprehensive Plan’s support for a down-zoning from an industrial zone to a business zone. However, the site characteristics which have made the location undesirable for building indicate re-designation to an industrial future land use upon Comprehensive Plan revision (circa 2017) may be appropriate.

Air - Permits Held or Dust Plans Followed

Air permits are not required by the MPCA required for sand transportation facilities of this size and nature. However, the operation does have a fugitive dust control plan (see attached) which addresses dust control at entrances/exits through concrete sweepable surfacing, internal roadways by calcium chloride application and adjacent city streets by contracted street sweeping.

Sand moving through the site is moist to wet, thus dramatically reducing the potential for dust to be created from the sand. Additionally, some of the sand loaded onto railcars has already been washed – reducing the potential for dust even further because the small/fine grains have been removed. Nonetheless, testing to ensure moisture content is recommended (see Recommendations Section).

Water - Permits Held and Best Management Practices Followed

Discussion with the MPCA has indicated that an industrial stormwater permit from the MPCA may be required for this operation. If applicable, it is recommended such a permit be obtained.

Performance Standards

The City has performance standards for noise, dust, vibration, fire and explosion hazard, radioactivity, smoke, odors, glare, and liquid and solid wastes. Although all standards apply, those for noise and dust are probably most relevant to the transportation operation.

The performance standard for noise sets a maximum decibel level of 80 at all times. Because the site is surrounded by business and manufacturing zoning, nighttime decibel thresholds are more lenient than if the operation were adjacent to residentially zoned property. The nearest residentially zoned property is over 600 feet away from the operation. Measurements for violation of decibel thresholds as applied to residential property would be made at this distance.

The performance standard for dust requires all activities to comply with state law and stipulates that a dust control plan may be required by the City. As stated previously, the operation has a dust control plan provided. This control plan was developed in response to issues with fugitive dust when the operation began in 2011. The improvements made as a result of the plan have reduced dust issues at the site.

Nonconforming Status/CUP Applicability

When the CUP requirement for sand processing and transportation facilities was adopted in March 2012, the operation at 370 West Second Street became a nonconforming use. As a nonconforming use, the operation may continue, but not expand without the issuance of a CUP. For the purpose of the sand processing and transportation facility CUP requirement, “expansion” was defined as including:

- 1) Addition of new equipment
- 2) Increase in land area of use
- 3) Expansion onto a new site

Thus, prohibited expansion at this site may include stockpiling of sand in the area occupied by semi trailers or the addition of another rail loading hopper. Such expansion would require issuance of a CUP.

Recommendations

1) Moisture Testing – Moisture testing of sand at the site is recommended. Such testing should follow protocol as defined by the City.

2) Obtain Industrial Stormwater Permit – If applicable, such permit is recommended to be obtained from MPCA.

Attachment:

- Fugitive Dust Control Plan

Carlos Espinosa
Assistant City Planner
City of Winona

3/26/12

RE: Fugitive Dust Control Plan for Modern Transport Terminal on 2nd Street

Carlos,

Per our conversations, I have prepared a plan to minimize the sediment tracking and dust issues at the rail loading site on Second Street. The following is the proposed solution to the issue and we are moving forward on constructing as outlined in the attached proposal.

We are recommending a series of changes to the site to accomplish the goal.

1. Apply crushed rock to the primary road ways on the site (see sketch). This should create a solid base and will eliminate the mud that is picked up and the dust that is created by the trucks. In addition to the crushed rock roads, we will continue to periodically apply a dust eliminating agent to the roads. The dust eliminating agent is Calcium Chloride. The frequency of application will be once per month unless additional applications are required due to weather conditions. A site inspection will be performed on a daily basis to determine if additional applications will be required.
2. At the end of the crushed rock road (just prior to exiting the site) we will install a "Tracking Pad" as outlined on the attached sketch. This Tracking Pad will be filled with large aggregate that the trucks will pass through that will remove the mud that is on the tires. In addition to the Tracking Pad, we will install a "Grizzly Pad" for the trucks to pass over to ensure the tires are clean.
3. In addition to the Pads and road way improvement, we plan to install a concrete approach for the trucks to turn on as they enter and leave the site (see sketch). This concrete approach will eliminate the dust created from turning and provide an area for us to clean as required.
4. In addition to the site changes, we will continue to engage the contracted street sweeper for cleaning the streets on an as needed basis.
5. As far as best practices, we have instructed the drivers to make sure their tailgates and vehicles are cleaned of any material that will fall off of the vehicle while in transit.

In this packet, you will find a sketch of the site locating the primary traffic flow, the Grizzly Pad and the Tracking Pad.

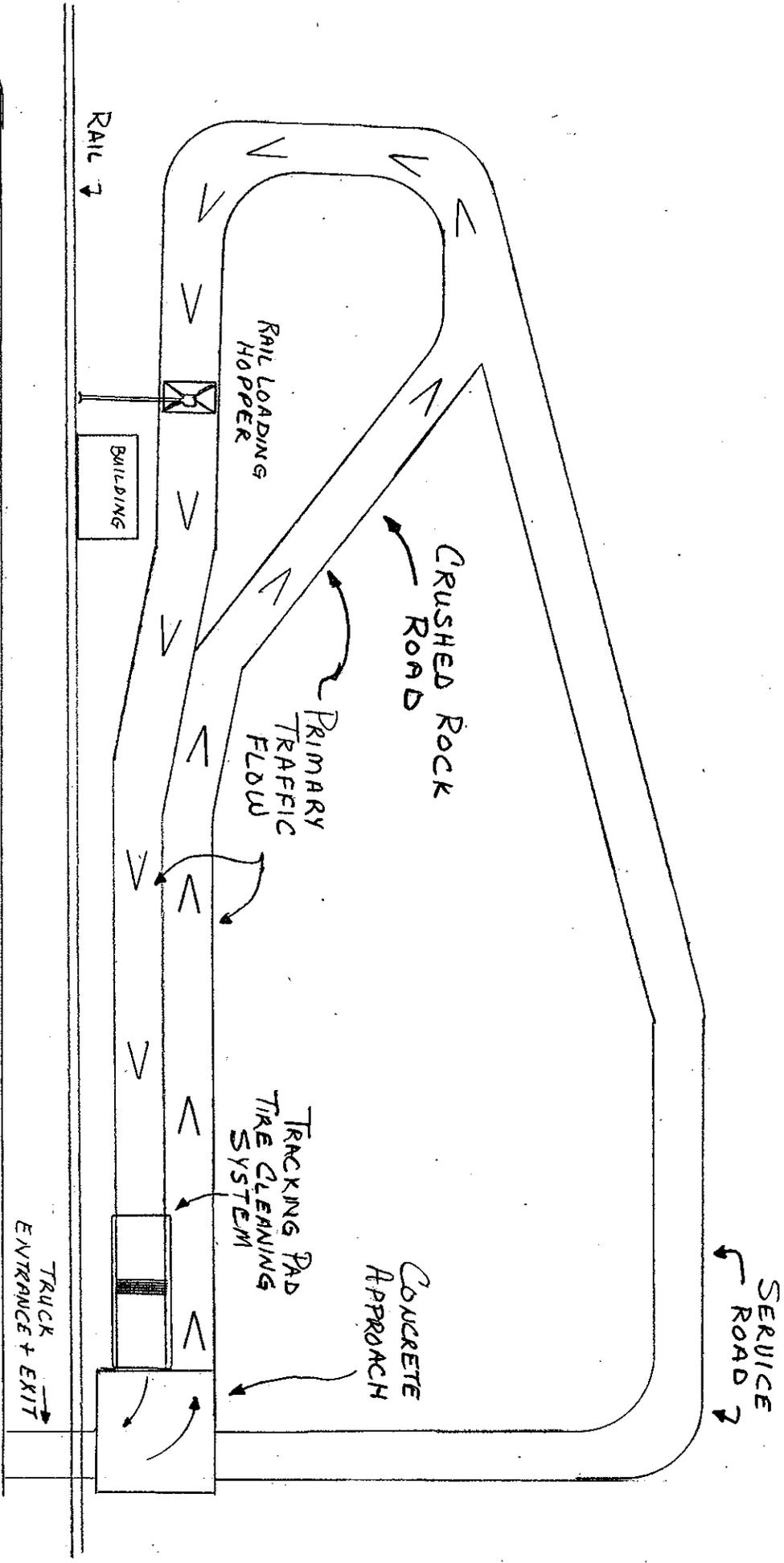
Please review the attached info when you get a minute and give me a call to discuss.

Tony Wasinger
General Manager
twasinger@kohnermaterials.com
507-429-8415



MODERN TRANSPORT TERMINAL
RAIL LOADING SITE ON 2ND STREET

3-26-12
NORTH



SECOND STREET

NOT TO SCALE